

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 457 OF 2006

VIJAYKUMAR ANAND LAWANDE,
RIBANDAR, ILHAS GOA.

....Petitioner

Versus

ANDHRA BANK, REP.BY ITS CHIEF
MANAGER, PANAJI GOA.

....Respondent

Mr. Pangam, Advocate with Amey Kakodkar, Advocate for the petitioner.

Mr. Mukund V.Pai, Advocate for the respondent.

Coram:- J. N. PATEL, J.

Date:- 23rd November, 2006

P.C.

Heard.

The petitioner is the original defendant against whom the Bank has filed suit for recovery. The petitioner has moved this application for amendment which has been marked at Exhibit 17 in the Trial Court application so as to incorporate paragraph 17 a, b and c for the purpose of showing that the petitioner has agreed to have a one time settlement with the respondent/Bank.

The Trial Court by order dated 29.3.2006 rejected the application on the ground that the proposed amendment is not material for adjudication of the controversy, but only to bring on record the talks of amicable settlement.

The learned Counsel appearing for the petitioner/original defendant submits that the amendment application is to be considered liberally and the Trial Court ought to have allowed the same as the parameters for

amendment of written statement and the plaint are different and for the purpose of seeking additional defence by way of amendment it should have been allowed.

Learned Counsel for the petitioner/original defendant has placed reliance on Baldev Singh and another v. Manohar Singh and another, (2006) 6 SCC 498 and, another, (2006) 6 SCC 498 and, Bhagwati Prasad Pawan Kumar v. Union of India, (2006) 5 SCC 311 in support of his contention that the respondent/ original plaintiff having accepted a sum of Rs.10,000/- as a token towards the offer of settlement made by the petitioner/original defendant reflects their conduct and that the proposed amendment would enable the defendant to take additional plea in support of the said issue.

This Court has considered the two authorities cited by the petitioner, no doubt the amendment should be liberally granted, but then the same should be relevant and material for deciding the issues between the parties. The factum of one time settlement is not accepted by the Bank and that is also not the case of the defendant. It was unilateral offer made by the defendant and it cannot be said to be an issue between the parties. Therefore the Trial Court was justified in rejecting the application.

Therefore there is no merits in the petition, and the same is dismissed with costs of Rs.5,000/- which is to be deposited in the Trial Court within two weeks.

J. N. PATEL, J.

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